

Summary of Revisions to Final Report

The following is a summary of the changes that have been incorporated in the Final Report in response to the comments received on the Second Interim Report.

Executive Summary

On page viii, inserted the following new paragraph, after the second paragraph, to highlight the importance of the recommended urgency legislation:

In order to maintain the flow of court facility projects during the period of transition from county to state responsibility, the Task Force recommends that a program of financial incentives be enacted as urgency legislation. The purpose of the incentive program is to facilitate and encourage counties to continue the development of court facility projects during the period prior to the transfer of responsibility for trial court facilities. The incentive program should reimburse county general fund expenditures for projects pre-approved by the Judicial Council and the state Department of Finance, and be conditioned on the enactment of trial court facilities legislation.

On page xv, revised Figure 2 from line graph to column graph of selected five-year increments.

On page xvi, first full paragraph, fourth line, revised final sentence of paragraph to read:

The annual cost and funding model is illustrated in Figure 3 below.

On page xvi, revised Figure 3 from line graph to column graph of selected five-year increments.

On page xvi, second bullet at bottom of page, replaced \$3 with \$5 in order to increase criminal fine penalties statewide to \$5 for each \$10 in criminal fines, penalties, and forfeitures.

On page xvii, to change the basis of civil filing surcharges from the Riverside model to the San Francisco model in order to capture additional revenue, revised the first bulleted paragraph, last line, to read:

“...made a uniform \$50 on civil filing fees throughout the state following the San Francisco model.”

On page xvii, revised the first full paragraph after the two bulleted paragraphs to read as follows, based on computation of the projected revenues from increased criminal fine penalties and civil filing surcharges:

Based on the above recommendations, total revenue generated for construction of trial court facilities would initially be \$179.1 million per year, increasing to a projected \$246.5 million in 20 years. The increased revenues would offset a significant portion of the current facilities need and, if achieved, could fully fund the projected future need.

On page xvii, inserted new paragraph at middle of page, in order to provide a basis for updating 1999 dollars to 2001 dollars, as follows:

All capital development and facilities support costs throughout this report are expressed in 1999 dollars, current at the time of the survey and evaluation. To adjust the total capital need to 2001 dollars, an escalation factor of 3.74% derived from the California Construction Cost Index may be applied to all capital costs presented throughout the report. To adjust facilities support costs to 2001 dollars, an escalation factor of 5.98% derived from Bureau of Labor Statistics Producer Price Indices may be applied.

On page xvii, revised third-to-last paragraph to describe impact of existing and recommended new revenues as follows:

Once current facilities needs are satisfied, the courts' capital development requirements could be funded entirely from fees, without dependence on state capital outlay funds. This would satisfy the goal of establishing a stable and reliable funding source.

On page xvii, added new next-to-last paragraph indicating the need to monitor and adjust fees, as follows:

The courthouse construction revenues are designed exclusively to fund capital development projects. Therefore the Task Force recommends that the revenues should be reevaluated once the current need is met, and that the fees be adjusted to reflect the capital budget requirements. As an alternative, legislation could be enacted to allow the collected funds to be used to offset facility support costs.

On page xvii, added new last paragraph to introduce the following Figure 4 depicting the funding model with the new revenues:

The annual cost and funding model based on the proposed revenue increases is illustrated in Figure 4.

On page xviii, inserted a new graph, Figure 4, to illustrate the effect of the proposed revenue increases for selected five-year increments.

*On page xix, added designation of **Table 2** to title of **Proposed Timeline for Transition**, and revised table to emphasize the need for early organizational development and for staffing the transition process early, as follows:*

Added new bullet under "October 2001 to September 2002" to read: "Initial transition funded."

Moved bullet that reads: "Judicial Council develops long-term and transitional organizations" to "October 2001 to September 2002" time period.

Revised "April 2002 to January 2003" time period to "July 2002 to January 2003."

Moved bullet that reads: "Judicial Council and local courts fill key staff positions in new facilities organization" to "July 2002 to January 2003" time period.

Legislative Charge

The legislative charge section was revised to add references to the recently completed Evaluation and Plan for Supreme Court and Courts of Appeal, and to update references to the previously issued Second Interim Report and to the Final Report. The changes included the following:

At page xx, under Government Code Section 77653, paragraph (a), second bullet, added reference to the report, Evaluation and Plan for Supreme Court and Courts of Appeal.

At page xx, under Government Code Section 77653, paragraph (b), second bullet, added reference to the report, Evaluation and Plan for Supreme Court and Courts of Appeal.

At page xxi, under Government Code Section 77653, paragraph (e), second bullet, added reference to the report, Evaluation and Plan for Supreme Court and Courts of Appeal.

At pages xxii and xxiii, under Government Code Section 77654, paragraph (d), revised references from "this report" to "the report."

At pages xxiii and xxiv, under Government Code Section 77654, added paragraphs (e) and (f) and commentary related to distribution of the Second Interim Report, incorporation of comments, and issue of the Final Report.

On pages xxv through xxvii added complete excerpt related to the Task Force on Court Facilities from the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233) as amended by AB 1935.

Chapter 4

On page 62 replaced the existing narrative of paragraph 5.7 with the following new paragraph, in order to provide a more complete explanation of the Task Force's recommendations regarding mitigation in response to its legislative charge:

5.7 Mitigating the Need for Additional Court Facilities

The Task Force considered various measures that could mitigate the need for additional space and thus lower the total estimated capital costs of additional court facilities. These measures and the associated potential cost savings are presented in Appendix A. The amount of the potential savings depends upon which measures are implemented and the extent to which the measures are implemented throughout the court system. The capital funding estimates presented in this report have not taken into account these potential savings and consequently the capital funding estimates could be lower if space mitigation measures were adopted and implemented in the courts.

On page 62 inserted the following new paragraph at the end of Chapter 4, in order to relate the capital need to 2001 dollars:

5.9 Adjustment of Capital Costs from 1999 Dollars to 2001 Dollars

All building construction and related capital development costs throughout this report are expressed in constant 1999 dollars, current at the time of the survey and analysis. In order to adjust the total capital need to 2001 dollars, an escalation factor was computed using the California Construction Cost Index (CCCI) published by the Real Estate Services Division of the Department of General Services. Using the CCCI, the construction cost inflation from mid-year 1999 to mid-year 2001 was computed as 3.74%. For example, the effect of this inflation is to increase the total current capital need for the maximum reuse options by \$105 million, from \$2,808 to \$2,913 million.

Chapter 5

On page 76, revised Figure 3 F from line graph to column graph of selected five-year increments.

Beginning at the bottom of page 76 and continuing on page 77, inserted the following new narrative and associated headings to relate capital and support costs to 2001 dollars:

Adjustment of Capital and Support Costs from 1999 Dollars to 2001 Dollars

All of the costs and analyses throughout this report are expressed in constant 1999 dollars, current as of the time of the survey and analysis. These costs and analyses can be adjusted to year 2001 dollars by using the following published cost indices.

Capital Cost Adjustment

In order to adjust the capital funding needs to 2001 dollars, an escalation factor of 3.74 percent was computed using the California Construction Cost Index (CCCI) published by the Real Estate Services Division of the Department of General Services. As an example, the effect of this inflation factor is to increase the cost of the maximum reuse options by \$10.5 million per year, from \$280.8 million to \$291.3 million per year, over the 10-year period identified in the analysis for meeting the current need.

Support Cost Adjustment

The facility support costs for operations and maintenance may be adjusted to 2001 dollars using the average of the following three facilities-related indices from the Bureau of Labor Statistics Producer Price Index: (1) building cleaning and maintenance services (Series Id PCU 7349); (2) operators and lessors of nonresidential buildings (Series Id PCU 6512); and (3) maintenance and repair construction (Series Id PCU BMRP). The resulting inflation factor for the applicable period is 5.98 percent. As an example of the impact of the adjustment, the adjusted facility support cost total (Table 3A) is increased from \$140.0 million to \$148.4 million.

On page 79, the introductory paragraph to Figure 3H was revised to read as follows:

Annual Cost and Funding

Based on existing revenue sources and the funding needs projected earlier, the unfunded cost for existing and needed court facilities can be modeled. The model presented below assumes that as current need is met, leased facilities would be phased out until only 250,000 USF remained. In the future, leased facilities would be used principally for emergency needs or as temporary space during repair or renovation of owned facilities. Therefore, lease payments are projected to decline over the same 10-year period that is recommended for fulfilling current trial court facilities needs. Figure 3H and the accompanying table below illustrate the capital need and facility support costs, together with the total funds available for capital development and for facility support. The table also presents the net annual funding required for each of the selected years. (See Appendix C of the Phase 5 report for more details.)

On page 80, revised Figure 3H from line graph to column graph of selected five-year increments, and revised Table 3H to express annual funding required and total funding available.

On page 81, in the first paragraph, beginning in the fifth line, revised the fourth and fifth sentences as follows:

The result would be greater funding needs beginning in year 13 and continuing through the 30-year term of financing. Figure 3I and the table that follows illustrate the effect of financing the current capital need for trial court facilities based on a 30-year term and 6.0 percent interest.

On page 81, revised Figure 3I from line graph to column graph of selected five-year increments, and revised Table 3I on the following page to express annual funding required and total funding available.

On page 83, to require accountability for expenditures and approval of local court and county, added two new sentences and created a new, second bulleted paragraph to read as follows:

- Counties shall be required to account for Courthouse Construction Fund expenditures from January 1, 1998 until the date that transfer of county court facilities is completed. During the transition period from the effective date of the statute transferring court facilities to the state until transfer of facilities is completed in the county, expenditures of not otherwise committed Courthouse Construction Funds shall require approval of the local court and the county.

Courthouse Construction funds that were transferred from the fund after January 1, 1998, and used by a county for purposes other than those specified in Government Code section 76100, shall be included in the funds transferred to the state and local courts.

On page 83, in order to require regular and periodic audits of collections, revised the third bulleted paragraph to read as follows:

- The Judicial Council develop policy and procedures for expenditure of Courthouse Construction Funds transferred to the local court, and regularly conduct periodic audits of the collection of fees at the local courts.

On page 84, in order to clarify that new revenues will be needed whether facility responsibility transfers or not, replaced the last sentence of the paragraph under “New Revenue Sources” with the following three sentences:

Under a statewide system, the courts could rely upon state general funds and currently authorized criminal penalties and civil filing surcharges dedicated to courthouse construction. In addition, new revenue sources need to be created. In order to fund the capital investment identified by the Task Force, the additional revenue sources will be needed whether responsibility for court facilities transfers to the state or remains with the counties.

On page 85, in order to recommend increased statewide criminal fine penalties and new civil filing surcharges and to establish effective date for accrual of fees, the following changes were made to subsection “Criminal Fine Penalties and Civil Filing Surcharges:”

Revised third paragraph to delete the heading above the paragraph, to change “\$3” in first line to “\$5”, and to add the following new sentence at end of paragraph:

The fee increases shall be effective and shall begin to accrue at the local level as of the effective date of the statute.

To change the basis of civil filing fee surcharges to the San Francisco model, deleted the heading above the fourth paragraph and revised paragraph to read as follows:

Revise the government code to require a surcharge of \$50 on civil filing fees in all counties following the San Francisco model (Gov. Code §76238) to be deposited in the Courthouse Construction Fund.

Revised fifth paragraph to account for new revenues, to read as follows:

Based on the amount collected in fiscal year 1998-1999, these proposed changes are estimated to add \$120.7 million in annual revenue to the Courthouse Construction Fund, comprised of \$69.8 million from the increased criminal penalty assessment, and \$50.9 million from statewide implementation of civil filing surcharges. The total revenue generated for courthouse construction would be \$179.1 million per year (1999 dollars), rising to a projected \$246.5 million in 20 years.

On pages 85-86, added new Figure 3K and accompanying Table 3K to illustrate the effect of the proposed revenue increases for selected five-year increments. The following new paragraph was added to introduce and explain the new graph and table:

Figure 3K and the accompanying table illustrate the effect of the proposed revenue increases on the net funding need for the pay-as-you-go model. As illustrated by the graph, once current facilities needs are satisfied -- projected to occur after year 12 in the detailed model -- the courts' support costs and capital development requirements could be funded entirely from fees, without dependence on state capital outlay funds. (See Appendix C of the Phase 5 report for more details.)

On page 87, added new Figure 3L and the accompanying Table 3L on the following page to illustrate the effect of financing the current need, with the proposed new revenues, for selected five-year increments. The following new paragraph was added to introduce and explain the new graph and table:

Figure 3L and the accompanying table illustrate the effect of financing the current capital need for trial court facilities, based on a 30-year term and 6.0 percent interest, with future capital need pay-as-you-go, together with the proposed increased revenues. Under this scenario, the uncommitted capital revenue from fees, if achieved, could satisfy the debt service on current capital need and offset a substantial portion of the future capital need. However, additional state funds would be needed to fund the balance of the total need.

On page 88, immediately following Table 3L, added the following new paragraph:

Under each scenario - either pay-as-you-go or financing current capital need - the proposed revenue increases will satisfy the goal of establishing a stable and reliable funding source. The following Table 3M compares the net funding required under the two scenarios.

On page 88, added new Table 3M, similar to the preceding Table 3J, to compare the pay-as-you-go and financed models, based on the proposed new revenues.

On page 88, added new paragraph at end of "Funding" subsection to indicate need for future monitoring and potential adjustment of fees, as follows:

Because the courthouse construction revenues are designed exclusively to fund capital development projects, the Task Force recommends that revenues be reviewed and audited regularly and periodically. When the current need is met in the pay-as-you-go scenario, or if available capital funds exceed the total of debt service and future capital need under the financed scenario, the revenues should be reevaluated and the fees adjusted so that they reflect capital budget requirements. As an alternative, legislation could be enacted to allow the collected funds to be used to offset facility support costs.

On page 89, in order to address the need for transition funding as soon as possible, after the third sentence in the second paragraph under "Short-term Recommendations," inserted the following new sentence, and regrouped the final three sentences into a new paragraph immediately following:

The Task Force recommends that funding be provided by July 1, 2002, to plan, organize, and staff the transition.

On page 91, under "General Transfer Principles," in order to emphasize to the need to comply with ADA, revised principle #3 to read as follows:

3. Responsibility for providing and maintaining court facilities (Gov. Code §68073), including complying with the Americans with Disabilities Act, shall remain with each county until transferred to the state.

On page 93, under "Transferring Responsibility," revised language of subparagraph #2 to reflect original intent of Task Force as follows:

2. The Judicial Council, in consultation with the local courts, shall negotiate with the counties on a building-by-building basis to determine the optimal way to provide court facilities in each county.

On page 94, revised second paragraph to add county and court representation to Public Works Board for the purpose of an appeal, as follows:

A county may appeal the rejection of a building to the state Public Works Board. For the purpose of hearing an appeal, the Task Force recommends the board be augmented by the addition of two voting members, one representing the counties and one representing the courts. The state shall have the burden of proof to justify the rejection of a court facility. If rejection of a facility is upheld, a county shall be responsible for providing necessary and suitable court facilities, as required by Government Code section 68073 as that section read on July 1, 2000.

On page 94, in order to clarify the intent of the Task Force, added the following sentence at the beginning of the existing paragraph under “Historic Facilities:

Recognizing that historic facilities represent uniquely valuable community resources, the Task Force recommends that no historic facility be transferred to the state without the express approval of the county’s Board of Supervisors.

The parenthetical reference at the end of the same paragraph was corrected to refer to the Health and Safety Code.

On page 96, under “Maintenance of Effort (MOE) Agreement,” in order to clarify the method of computation of inflation of MOE, revised first sentence of the sixth paragraph to read as follows:

The Department of Finance shall provide counties with instructions for calculating the actual MOE amount by using the average of the following three indices from the Bureau of Labor Statistics Producer Price Index: (1) building cleaning and maintenance services (Series Id PCU 7349); (2) operators and lessors of nonresidential buildings (Series Id PCU 6512); and (3) maintenance and repair construction (Series Id PCU BMRP).

On page 99, at first paragraph under heading “Memorandum of Understanding (MOU),” made the following changes:

To include the local courts, changed the first sentence to read:

The Judicial Council, in consultation with the local courts, shall represent the state in negotiations with counties regarding the transfer of facilities responsibility from the counties to the state.

In order to address liabilities, revised the second sentence to read:

The negotiations with each county shall be concluded with an MOU specifying the rights and obligations of the state and county relative to the transferred property, including responsibilities for liability arising from facility use, as well as any mutually agreed conditions or procedures for the ongoing administration of the property.

On page 100, revised Table 4D to emphasize the need for early organizational development and for staffing the transition process early, as follows:

Moved bullet that reads: “Judicial Council develops long-term and transitional organizations” to “October 2001 to September 2002” time period.

Revised “April 2002 to January 2003” time period to “July 2002 to January 2003.”

Moved bullet that reads: “Judicial Council and local courts fill key staff positions in new facilities organization” to “July 2002 to January 2003” time period.

On page 102, in order to include the counties and justice agencies in the planning process, inserted the following sentence at the end of the first paragraph:

The planning process developed for court facilities should involve consultation and coordination with the counties and justice agencies.

On page 104, at the end of the fourth bullet, inserted new language noting the delegation authority of the Public Works Board, to read as follows:

- Capital outlay court facility projects should be subject to the State Public Works Board review and control, whether funded by Courthouse Construction Funds or State General Funds. The Task Force recommends that the Public Works Board be authorized to delegate -- at its discretion -- to the Judicial Council the review and approval of court facility projects.